

Message Text

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PAGE 01 STATE 060530
ORIGIN L-03

INFO OCT-01 EUR-12 ISO-00 IO-13 SSO-00 AF-08 ARA-06
EA-07 NEA-10 STR-04 INRE-00 USIE-00 AID-05
CIAE-00 COME-00 EB-08 FRB-03 INR-07 NSAE-00
TRSE-00 XMB-02 OPIC-03 SP-02 LAB-04 SIL-01 OMB-01
/100 R

DRAFTED BY L:SMSCHWEBEL:CDJ

APPROVED BY IO:RDMOREY

IO/DHP:HGLAZER

L/T:AROVINE

IO/IEP:RPOOLE

EB/FD/OSB:JLNESVIG

IO/DHP:HGWING

-----182216Z 121683 /75-62

O 181822Z MAR 77

FM SECSTATE WASHDC

TO AMEMBASSY VIENNA IMMEDIATE

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E.O. 11652:N/A

TAGS:UNIDO, EIND, OCON, PORG

SUBJECT:APPARENT G-77 LIMITS OF COMPROMISE AT IGC-V ON
CHAPEAU OF ARTICLE 2

REF:A.VIENNA 2101 B.VIENNA 2034 C.VIENNA 1990

1. DEPT FULLY AGREES WITH USDEL ON IMPORTANCE OF "LINK".
AS A MATTER OF TREATY INTERPRETATION, AND HENCE OF
INTERNATIONAL LAW, WHILE A PREAMBLE TO AN INTERNATIONAL
AGREEMENT DOES NOT OF ITSELF NORMALLY BIND THE PARTIES
TO PARTICULAR OBLIGATIONS, IT IS GENERALLY ACCEPTED THAT
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PAGE 02 STATE 060530

A PREAMBLE MAY SERVE AS AN AID TO THE INTERPRETATION
OF THE OBLIGATIONS SET FORTH IN THE BODY OF THE AGREE-
MENT. ANY LINK BETWEEN THE PREAMBLE AND THE BODY
STRENGTHENS THIS LINE OF ARGUMENT. THE STRONGER THE
LINK BETWEEN THE PREAMBLE AND THE BODY, THE GREATER
THE UTILITY OF THE PREAMBLE AS A SOURCE FOR THE INTER-
PRETATION OF THE MEANING OF THE BODY OF THE TREATY.

INDEED, A LINK COULD BE SO CAST AS TO GIVE THE PREAMBLE, IN EFFECT IF NOT TERMS, LEGALLY BINDING FORCE.

2. IN THIS CASE, SINCE ELEMENTS OF THE RESOLUTIONS OF THE SIXTH SPECIAL SESSION, NIEO, CERDS AND LIMA DIRECTLY

AND SIGNIFICANTLY CLASH WITH IMPORTANT POLICIES OF THE USG, WE DO NOT WISH TO GIVE A DIRECTION TO THE INTERPRETATION OF THE OBLIGATIONS OF THE AGREEMENT WHICH IS FORMED BY THOSE DOCUMENTS. OUR SENSITIVITY IS THE MORE ACUTE SINCE WE ARE DEALING NOT WITH A RECOMMENDATORY RESOLUTION BUT A TREATY WHICH, MOREOVER, WILL REQUIRE SENATE CONSENT TO RATIFICATION.

3. USDEL IS ACCORDINGLY CORRECT IN CONTINUING TO OPPOSE A LINK SUCH AS "IN ACCORDANCE WITH", OR "IN THE LIGHT OF" OR "IN THE SPIRIT OF".

4. DEPT (LEGAL ADVISER'S OFFICE CLEARS) CONFIRMS INSTRUCTIONS CONTAINED IN STATE 49072.

5. RE REFTEL (B), SHOULD THE BRIDGING LANGUAGE SET OUT IN PARA 4 BE ACTIVELY CONSIDERED, WE SUGGEST YOU MAKE MAXIMUM EFFORT TO DELETE THE ARTICLE "THE" BEFORE "OBJECTIVES" SO THE PHRASE WOULD BEGIN: "MINDFUL OF OBJECTIVES..." AS YOU WILL APPRECIATE, OBJECT OF THIS EXERCISE WOULD BE TO TIE US TO THE ACHIEVEMENT OF ONLY SOME RATHER THAN ALL THE OBJECTIVES OF NIEO, CERDS, ETC., WHICH IS EMINENTLY DESIRABLE SINCE SOME OF THOSE LIMITED OFFICIAL USE

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PAGE 03 STATE 060530

OBJECTIVES ARE CONTRARY TO OUR INTERESTS. EQUALLY, WE PREFER TO DELETE "THE" BEFORE "RESULTS". AND, IN PLACE OF "INTENDED TO BE ACHIEVED", OR "INTENDED TO BE ACCOMPLISHED", WE STRONGLY PREFER SIMPLY: "MINDFUL OF OBJECTIVES OF NIEO, ETC., ETC.", BECAUSE WE DO NOT FIND ATTRACTIVE THE IDEA OF ACHIEVING OR ACCOMPLISHING ALL THE OBJECTIVES OR RESULTS SOUGHT BY NIEO-CERDS-LIMA DOCUMENTS.

6. RE REFTEL (C), LEGAL ADVISER AND OTHERS CONCERNED AGREE THAT WE CAN ACCEPT (A) "A NEW INTERNATIONAL ECONOMIC AND SOCIAL ORDER" AND (B) "WITH A VIEW TO ASSISTING IN THE ESTABLISHMENT OF AN EQUITABLE AND NEW INTERNATIONAL ECONOMIC ORDER" SINCE, AS USDEL POINTS OUT, "ORDER" IS CLEARLY MODIFIED BY A NEW ADJECTIVE WHICH PERMITS US TO MAINTAIN THAT WE ARE NOT ENDORSING THE NIEO OF THE SIXTH SPECIAL SESSION. HOWEVER, IF SUCH PHRASEOLOGY IS LINKED TO THE RESOLUTIONS OF THE SIXTH SPECIAL SESSION, THEN THIS CABLE CANNOT BE READ

AS AUTHORITY TO ACCEPT SUCH.

7. FURTHER RE REF (C), DEPARTMENT FINDS ACCEPTABLE
FORMULATION ON TRANSNATIONAL CORPORATIONS PROPOSED BY
GROUP B. ALTERNATIVE LANGUAGE PROPOSED IN PARA 6 OF
REF (C) WOULD ALSO BE ACCEPTABLE.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
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Current Classification: UNCLASSIFIED
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Control Number: n/a
Copy: SINGLE
Sent Date: 18-Mar-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
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Document Source: CORE
Document Unique ID: 00
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Enclosure: n/a
Executive Order: N/A
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